

1 Alycia A. Degen, SBN 211350
adegen@sidley.com
2 Bradley J. Dugan, SBN 271870
bdugan@sidley.com
3 SIDLEY AUSTIN LLP
555 West Fifth Street, Suite 4000
4 Los Angeles, California 90013
Telephone: +1 213 896-6000
5 Facsimile: +1 213 896-6600

6 Attorneys for Defendants and Specially
Appearing Defendants *Bayer Corporation,*
7 *Bayer Essure Inc., Bayer HealthCare LLC,*
Bayer HealthCare Pharmaceuticals Inc.
8

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 LEANNA BLANKENSHIP, *et al.*,

12
13 Plaintiffs,

14 vs.

15 BAYER CORP.; BAYER HEALTHCARE
16 LLC; BAYER ESSURE INC., (F/K/A
CONCEPTUS, INC.); BAYER HEALTHCARE
17 PHARMACEUTICALS, INC.; and DOES 1-10,
inclusive,

18
19 Defendants.
20
21
22

) Case No. 3:17-cv-02230-WHO
)

) **JOINT STIPULATION TO STAY**
) **BRIEFING PENDING RULINGS ON**
) **MOTION TO REMAND AND**
) **MOTION TO DISMISS IN**
) ***SANGIMINO, et al. v. BAYER CORP.,***
) ***et al.***

1 Subject to and without waiving their rights to challenge any aspect of Defendants' Removal,
2 Plaintiffs Leanna Blankenship, *et al.*, and defendants and specially-appearing defendants Bayer
3 Corporation, Bayer Essure Inc., Bayer HealthCare LLC, and Bayer HealthCare Pharmaceuticals Inc.
4 (collectively, "Bayer"), hereby stipulate and agree as follows:

5 1. Plaintiffs filed their initial Complaint on March 10, 2017, and their First Amended
6 Complaint on March 21, 2017, in the Superior Court for the State of California, County of Riverside.
7 In their Complaint and First Amended Complaint, Plaintiffs assert claims involving the Essure®
8 Permanent Birth Control System (the "Essure® Device").

9 2. On April 3, 2017, the Coordination Trial Judge of the Superior Court of the State of
10 California, County of Alameda, granted Plaintiffs' petition for coordination of add-on case with the
11 Judicial Counsel Coordination Proceeding ("JCCP") 4887.

12 3. On April 21, 2017, Bayer filed a Notice of Removal purporting to remove the matter
13 from the Alameda County Superior Court to the United States District Court for the Northern
14 District of California. Bayer maintains that its removal to the Northern District of California was
15 proper. [Dkt. No. 1].

16 4. On April 24, 2017, Bayer filed an administrative motion to relate this matter to
17 another matter pending in the Northern District of California involving the Essure® Device,
18 captioned as *Elizabeth Ann Sangimino, et al. v. Bayer Corp., et al.*, Case No. 3:17-cv-01488-WHA.
19 [Dkt. No. 10]. The Court has not yet ruled on this motion.

20 5. On April 28, 2017, Bayer filed its Motion to Dismiss on the grounds of federal
21 preemption, among others. [Dkt. No. 14]. The Motion to Dismiss is currently scheduled for hearing
22 on July 19, 2017.

23 6. Plaintiffs intend to file a Motion to Remand this action to the Superior Court of
24 Alameda County, State of California, pursuant to 28 U.S.C. § 1447, on the grounds that this Court
25 lacks jurisdiction over this action.

26 7. In the *Sangimino* matter, the Court has already set a briefing schedule on Bayer's
27 Motion to Dismiss, which is similar to the Motion to Dismiss filed in this matter, and on Plaintiffs'
28 Motion to Remand, which will likely contain matters similar to the Motion to Remand which

1 Plaintiffs intend to file in this matter. The briefing schedule on those motions in *Sangimino* is as
2 follows:

- 3 • **April 28, 2017:** Bayer's deadline to respond to Plaintiffs' Motion to Remand;
4 Plaintiffs' deadline to respond to Bayer's Motion to Dismiss;
- 5 • **May 12, 2017:** Bayer's deadline to file a reply in support of the Motion to Dismiss;
6 Plaintiffs' deadline to file a reply in support of the Motion to Remand;
- 7 • **June 8, 2017:** Hearing on Motion to Dismiss and Motion to Remand.

8 8. In light of the close overlap between the issues being briefed in *Sangimino* and some
9 of those that will be presented to the Court in this matter, the parties have met and conferred and
10 agree that it would be in the interest of judicial economy to stay the briefing for the Motion to
11 Dismiss and anticipated Motion to Remand in this matter pending the Court's rulings on the Motion
12 to Dismiss and Motion to Remand in *Sangimino*. The Parties thus respectfully request and ask the
13 Court to enter an order in this matter staying all briefing on Bayer's Motion to Dismiss and
14 Plaintiffs' anticipated Motion to Remand until such time.

15
16 IT IS SO STIPULATED.

17 Dated: May 3, 2017

SIDLEY AUSTIN LLP

18
19 By: /s/ Alycia A. Degen

Alycia A. Degen
Bradley J. Dugan

20
21 *Attorneys for Defendants and Specially*
22 *Appearing Defendants*
Bayer Corporation, Bayer HealthCare LLC,
Bayer Essure Inc., and Bayer HealthCare
Pharmaceuticals Inc.

23
24 Dated: May 3, 2017

BARON & BUDD, P.C.

25 By: /s/ Sindhu S. Daniel

Laura J. Baughman
Sindhu S. Daniel
Russell W. Budd

26
27 *Attorneys for Plaintiffs*
28 Leanna Blankenship, et al.

1 **Filer's Attestation:** Pursuant to Local Rule 5-1(i)(3), regarding signatures, Alycia A. Degen hereby
2 attests that concurrence in the filing of this document has been obtained from counsel for Plaintiffs.


3 Dated: May 3, 2017

4 By: /s/ Alycia A. Degen
Alycia A. Degen

ORDER

PURSUANT TO THE PARTIES' STIPULATION, and for good cause shown, IT IS
ORDERED THAT the briefing on Bayer's Motion to Dismiss and Plaintiffs' anticipated Motion to
Remand is STAYED and continued pending the rulings on the Motion to Dismiss and Motion to
Remand in the related case *Sangimino v. Bayer Corp., et al.*, Case No. 3:17-cv-01488-WHA.

Dated: May 4, 2017


Honorable William H. Orrick